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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,385	04/12/2004	Ye Fang	SP04-026	2860
22928	7590	05/03/2007		
CORNING INCORPORATED			EXAMINER	
SP-TI-3-1			CHIN, CHRISTOPHER L	
CORNING, NY 14831				
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/822,385	Applicant(s) FANG ET AL.	
	Examiner Christopher L. Chin	Art Unit 1641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 15-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-9 and 11-14 is/are rejected.
- 7) ☒ Claim(s) 4 and 10 is/are objected to.
- 8) ☒ Claim(s) 1-27 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/13/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I – claims 1-14 in the reply filed on 2/12/07 is acknowledged. The traversal is on the ground(s) that the proposed inventions are inextricably intertwined and prosecution of the proposed groups of claims I, II, and III together would be most effective for the Office. In order to conduct a comprehensive search regarding any one of the groups, including the group provisionally elected, it would be inherently necessary to review the same pertinent fields and classes of prior art relating to the other groups. This is not found persuasive because the methods in Groups II and III require different search terms and different search strategies in addition to what is required to search the device of Group I. The additional searching required for Groups II and III shows an undue burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. Claims 3, 7, 9, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is vague because the recitation of "said solid material" lacks antecedent support. Claim 3 should probably depend from claim 2 since claim contains the first recitation of a "solid material".

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Claim 7 is vague in reciting the phrase "adapted to" because it is not clear as to how the porous layer is modified to physically ensnare probe molecules.

Claim 9 is vague. The last member of the Markush group should be preceded by an --and-- to close off the group. Otherwise, the claim is incomplete since it appears that there are additional members of the Markush group missing.

Claim 11 is vague for the same reasons as claim 9.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-8, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Manns.

Manns (US Patent 5,679,310) discloses a multiwell test plate that includes a substantially rigid, polymeric tray having a substantially flat upper surface and a regular array of similar wells, typically cylindrical or frusto-conical. Each well being defined by a fluid impervious peripheral wall extending a predetermined distance along an axis substantially perpendicularly to the upper surface between an opening in that surface and a well bottom. In embodiments of the device wherein the bottom of each well is fluid impervious, a porous material is disposed and coupled to the bottom of each well (col.

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2, lines 23-54, and Figure 9). The device can be made of materials including polymers, such as polystyrene (col. 4, lines 1-13). The porous material at the bottom of each well is comprised of a microporous, hollow fibrous material (col. 5, lines 31-52).

With respect to claim 13, the manner in which the claimed device is made is not given any weight since the instant claims are directed to a product and not a method to make the product.

Allowable Subject Matter

5. Claims 4 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following US Patents disclose multiwell plate devices:

4,770,856; 4,948,564; and 6,096,562

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher L. Chin whose telephone number is (571) 272-0815. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571) 272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher L. Chin
Primary Examiner
Art Unit 1641

4/28/07